MONTANA LEGISLATIVE HISTORY

Chapter 651 19 89

Bill H _____ S 303 Original bill & history X C

H. Committee on _____			S. Committee on BUSINESS & INDUSTRY		
Hearing Date(s)	~~2/15~~	C	Hearing Date(s)	2/15	X C
hearing	3/8	X C	EXEC ACTION	2/17	X C
Exec. Action	3/9	X C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

4/20 SIGNED BY GOVERNOR
CHAPTER NUMBER 588 EFFECTIVE DATE: 10/01/89

SB 303 INTRODUCED BY THAYER, ET AL.
LICENSE, EXAMINE ESCROW AGENTS

2/01	INTRODUCED		
2/01	REFERRED TO STATE ADMINISTRATION		
2/02	FISCAL NOTE REQUESTED		
2/06	REREFERRED TO BUSINESS & INDUSTRY		
2/08	FISCAL NOTE RECEIVED		
2/09	FISCAL NOTE PRINTED		
2/15	HEARING		
2/17	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/20	2ND READING PASSED	37	13
2/21	3RD READING PASSED	41	9
	TRANSMITTED TO HOUSE		
2/22	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
3/08	HEARING		
3/10	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/11	2ND READING CONCURRED AS AMENDED	77	12
3/14	3RD READING CONCURRED	90	4
	RETURNED TO SENATE WITH AMENDMENTS		
4/04	2ND READING AMENDMENTS CONCURRED	49	0
4/06	3RD READING AMENDMENTS CONCURRED	48	0
4/13	SIGNED BY PRESIDENT		
4/17	SIGNED BY SPEAKER		
4/17	TRANSMITTED TO GOVERNOR		
4/18	RETURNED TO SENATE WITH GOVERNOR'S AMENDMENTS		
4/19	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	50	0
4/19	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	47	1
	TRANSMITTED TO HOUSE		
4/20	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	91	4
4/21	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	91	7
4/26	SIGNED BY PRESIDENT		
4/28	SIGNED BY SPEAKER		
5/01	TRANSMITTED TO GOVERNOR		
5/11	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 651 EFFECTIVE DATE: 10/01/89		

SB 304 INTRODUCED BY REGAN
WAIVE UNIVERSITY TUITION FOR VETERANS, NATIVE AMERICANS, AND OTHERS
BY REQUEST OF BOARD OF REGENTS

2/01	INTRODUCED		
2/01	REFERRED TO EDUCATION & CULTURAL RESOURCES		
2/03	FISCAL NOTE REQUESTED		
2/08	HEARING		
2/09	FISCAL NOTE RECEIVED		
2/10	FISCAL NOTE PRINTED		
2/13	COMMITTEE REPORT--BILL PASSED AS AMENDED		

2/15	2ND READING PASSED AS AMENDED	50	0
2/17	3RD READING PASSED	49	1
	TRANSMITTED TO HOUSE		
2/21	REFERRED TO EDUCATION & CULTURAL RESOURCES		
3/03	HEARING		
3/04	COMMITTEE REPORT--BILL CONCURRED		
3/06	2ND READING CONCURRED	68	21
3/07	3RD READING CONCURRED	80	15
	RETURNED TO SENATE		
3/14	SIGNED BY SPEAKER		
3/14	SIGNED BY PRESIDENT		
3/15	TRANSMITTED TO GOVERNOR		
3/20	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 170 EFFECTIVE DATE: 3/20/89		

SB 305 INTRODUCED BY JERGESON
ALLOW FOR VOLUNTARY TERMINATION OF STATE LAND LEASE UPON ENROLLMENT IN CROP REDUCTION PROGRAM

2/01	INTRODUCED		
2/01	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.		
2/02	FISCAL NOTE REQUESTED		
2/06	FISCAL NOTE RECEIVED		
2/06	HEARING		
2/07	FISCAL NOTE PRINTED		
2/07	COMMITTEE REPORT--BILL PASSED		
2/09	2ND READING PASSED	50	0
2/11	3RD READING PASSED	46	0
	TRANSMITTED TO HOUSE		
2/21	REFERRED TO NATURAL RESOURCES		
3/06	HEARING		
3/07	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/11	2ND READING CONCURRED AS AMENDED	87	1
3/14	3RD READING CONCURRED	97	1
	RETURNED TO SENATE WITH AMENDMENTS		
4/01	2ND READING AMENDMENTS CONCURRED	48	0
4/04	3RD READING AMENDMENTS CONCURRED	48	0
4/06	SIGNED BY PRESIDENT		
4/08	SIGNED BY SPEAKER		
4/10	TRANSMITTED TO GOVERNOR		
4/15	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 555 EFFECTIVE DATE: 4/15/89		

SB 306 INTRODUCED BY JENKINS
REQUIRE ALL CLASS A-4 DEER LICENSES TO BE SOLD IN TOWN NEAREST HUNTING DISTRICT

2/01	INTRODUCED		
2/01	REFERRED TO FISH & GAME		
2/09	HEARING		
	DIED IN COMMITTEE		

SB 307 INTRODUCED BY HOFMAN, S., ET AL.
PROHIBIT OBSCENITY DISSEMINATION/EXHIBITION TO PERSON OF ANY AGE

SENATE BILL NO. 303

INTRODUCED BY [signatures]

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LICENSURE OF ESCROW AGENTS BY THE DEPARTMENT OF COMMERCE; REGULATING ESCROW BUSINESSES; PROVIDING FOR FEES AND PENALTIES; AND PROVIDING AN EXEMPTION TO THE SUNRISE AUDIT REQUIREMENT."

STATEMENT OF INTENT

A statement of intent is required for this bill because it grants rulemaking authority to the director of the department of commerce to adopt rules to license and regulate escrow agents.

The legislature intends that the rules adopted be designed to protect property buyers in this state by requiring those who offer escrow services to become licensed and subject to state regulation and to prohibit certain unsound practices regarding the transaction of escrow services.

The legislature further intends that the director:

(1) make reasonable rules that do not extend, modify, or conflict with any law of this state or with any reasonable implication of those laws; and

(2) make or amend those rules only after hearing for which notice has been given.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Title and purpose.** (1) [This act] shall be known and may be cited as the "Regulation of Escrow Agents Act".

(2) It is the intent of the legislature that the escrow industry be supervised and regulated by the financial division of the department of commerce in order to protect the citizens of the state and to provide that the business practices of the escrow industry are fair and orderly among the members of the escrow industry, with due regard to the ultimate consumers in this important area of property protection.

NEW SECTION. **Section 2. Definitions.** As used in [this act], unless the context requires otherwise the following definitions apply:

(1) "Department" means the department of commerce as provided for in Title 2, chapter 15, part 18.

(2) "Director" means the director of the department of commerce.

(3) "Escrow" means any transaction in which one person, for the purpose of effecting the sale, transfer, encumbrance, or lease of real or personal property to another person or for the purpose of making payments under any encumbrance of the property, delivers any written

INTRODUCED BILL
SB 303

instrument, money, evidence, title to real or personal property, or other thing of value to a third person to be held by that third person until the happening of a specified event or the performance of a prescribed condition, when the instrument, money, evidence, title, or thing of value is to be delivered by the third person to a grantee, grantor, promisee, promisor, obligee, obligor, bailee, or bailor or to any of his agents or employees pursuant to the written escrow instructions.

(4) "Escrow agent" means a person required to be licensed under [this act] who is carrying on an escrow business.

(5) "Escrow business" means a commercial activity characterized by the regular and continuous carrying on of escrow transactions.

(6) "Licensee" means a person holding a valid license under [this act] as an escrow agent.

(7) "Person" means an individual, cooperative, association, company, firm, partnership, corporation, or other legal entity.

NEW SECTION. **Section 3. Exemptions.** (1) The provisions of [this act] do not apply to the following:

(a) a person licensed by this state pursuant to Title 37, chapter 61, as an attorney at law who is not actively engaged in the escrow business;

(b) a person licensed by this state pursuant to Title 37, chapter 50, as a public accountant who is not actively engaged in the escrow business;

(c) a person whose principal business is that of preparing abstracts or making searches of title that are used as a basis for the issuance of any title insurance policy by a company doing business under the laws of this state relating to insurance companies if the escrow transaction does not exceed 90 days;

(d) except as provided in subsection (2), any broker licensed by the Montana board of realty regulation if he is performing an act:

(i) in the course of or incidental to a single real estate transaction; and

(ii) for which a real estate license is required; and

(e) any person furnishing escrow services under the order of a court.

(2) An act by a broker that constitutes an escrow transaction may not exceed a period of 90 days. A trust account of a broker licensed by the Montana board of realty regulation is not an escrow account within the meaning of [this act].

NEW SECTION. **Section 4. Exemption or exception -- burden of proof.** In any proceeding under [this act], the burden of proving an exemption or exception from a

definition is upon the person claiming it.

NEW SECTION. **Section 5. Director -- powers and duties.** (1) The director shall exercise general supervision and control over escrow agents doing escrow business in this state.

(2) In addition to the other duties imposed upon him by law, the director shall:

(a) adopt reasonable rules necessary to effectuate the purposes of [this act];

(b) conduct examinations and investigations that may be necessary to determine whether a person has engaged or is about to engage in any act or practice constituting a violation of any provisions of [this act];

(c) conduct examinations, investigations, and hearings necessary and proper for the efficient administration of [this act]; and

(d) establish fees commensurate with the costs of issuing the license and examining an escrow agent's escrow business.

NEW SECTION. **Section 6. Application for license -- issuance.** (1) A person must be licensed pursuant to [this act] as an escrow agent before engaging in an escrow business.

(2) To obtain a license, an applicant shall file with the director an application for an escrow agent's license.

The application must be in writing, verified by oath, and in the form prescribed by the director. The application must set forth:

(a) the location of the applicant's principal office and all branch offices in this state and his residence address;

(b) the name and form under which the applicant plans to conduct business;

(c) the general plan and character of the business;

(d) the names, residences, and business addresses of any principals, partners, officers, trustees, and directors, specifying as to each his capacity and title;

(e) the experience and qualifications of the persons proposed to act as officers and managers;

(f) the length of time the applicant has been engaged in the escrow business; and

(g) any other relevant information the director requires.

(3) The director shall grant and issue an escrow agent's license if:

(a) the director has received and filed the application specified in [this section]; and

(b) the applicant has complied with all the requirements of [this act] and any rules promulgated under it.

(4) An escrow agent shall immediately notify the department of any material change in the information contained in the application.

NEW SECTION. **Section 7. Transferability.** An escrow agent license is not transferable or assignable. The provisions of this section apply to the change of ownership of any escrow business, including the change of control over any corporation licensed as an escrow agent. For purposes of this section, "change of control" means the transfer of 25% or more of the outstanding voting stock of the corporation.

NEW SECTION. **Section 8. Maintenance of records.** (1) A licensee shall establish and maintain the books, accounts, and records necessary to enable the director at any time to determine whether the escrow transactions performed by the licensee comply with the provisions of [this act]. The books, accounts, and records must be maintained in accordance with generally accepted accounting principles and good business practice.

(2) A licensee shall establish and maintain the following records concerning general accounts:

(a) a general record reflecting the assets, liabilities, capital, income, and expense of the business, maintained in accordance with generally accepted accounting principles;

(b) a cash receipt and disbursement journal; and

(c) a reconciliation of monthly statements to the general record.

(3) The records referred to in subsections (1) and (2) must be reconciled at least once each month with the bank statements reflecting each escrow account.

(4) A licensee shall preserve for at least 3 years after the close of any escrow:

(a) all bank statements reflecting each escrow account and records of monthly reconciliations of the statements to the general record;

(b) all canceled checks drawn on each escrow account;

(c) any additional records reflecting banking transactions regarding each escrow account, including copies of all receipts for funds transferred from other accounts into each escrow account;

(d) all statements of account;

(e) all escrow instructions and amendments to them; and

(f) all additional records pertinent to each escrow transaction.

(5) (a) A licensee shall file annually with the director, on or before April 30, a statement of its financial condition, transactions, and affairs as of the preceding December 31. The director may grant an extension, not to exceed 10 days, on or before the April 30 filing date

if the licensee demonstrates good cause for an extension. The financial statement must be certified by an independent public accountant and must be in a form and contain the information prescribed by the director.

(b) If all the escrow transactions of two or more escrow agents are encompassed in one annual statement of a person furnishing escrow services, the director may permit one statement to constitute the annual filing on behalf of those escrow agents.

NEW SECTION. **Section 9.** **Statement of account.** A licensee shall provide a full statement of an escrow account established under an escrow agreement within 14 days of a written request made by a party to the escrow agreement. The statement must state:

(1) credits to principal;

(2) interest earned for the period; and

(3) other information requested.

NEW SECTION. **Section 10.** **Deposit of funds required -- disbursement.** (1) All money deposited in an escrow to be delivered upon the close of the escrow or upon any other contingency must be deposited in a bank or savings and loan association doing business in this state and must be kept separate, distinct, and apart from funds belonging to the escrow agent. The funds, when deposited, must be designated as "escrow accounts" or given some other appropriate

designation indicating that the funds are not the funds of the escrow agent.

(2) A person may not knowingly keep or cause to be kept any funds or money in any bank or savings and loan association under the heading of "escrow accounts" or any other name designating the funds or money as belonging to the clients of any escrow agent, except actual escrow funds deposited with the escrow agent.

(3) Escrow funds are not subject to execution or attachment on any claim against the escrow agent.

(4) Any interest received on funds deposited with an escrow agent in connection with any escrow that are deposited in an authorized depository must be paid over to the depositing party to the escrow account and may not be transferred to an account of the escrow agent. This section does not limit or restrain the right of the depositing party to contract with respect to the interest received on the deposits by an independent and subsequent agreement.

(5) An escrow agent may not disburse funds from any escrow account until cash, items, or drafts in an amount sufficient to fund any disbursements from the account have been received and deposited in the account and are available for withdrawal from the account as a matter of right. For the purposes of this subsection:

(a) "Available for withdrawal from the account as a

matter of right" means that the bank or savings and loan association in which an item has been deposited considers the item available for withdrawal as a matter of right and that a final settlement will occur in writing with respect to that item.

(b) "Item" means any check, including a cashier's check, negotiable order of withdrawal, share draft, traveler's check, or money order.

NEW SECTION. **Section 11. Fees.** (1) (a) An applicant for licensure shall pay a license fee set by the director, commensurate with the costs of licensing the applicant.

(b) A licensee may be charged an examination fee based on the actual costs of the examination.

(2) All fees collected by the department for the licensure and examination of escrow agents must be paid to the state treasurer to the credit of the state special revenue fund for use by the department in its licensure and examination functions under [this act].

NEW SECTION. **Section 12. Unauthorized business practices -- penalty.** (1) Unauthorized business practices of escrow agents include but are not limited to the following:

(a) issuing, circulating, making use of, or publishing, by any means of communication, an advertisement indicating that a person is in the escrow business if that person is not a licensed escrow agent;

(b) soliciting or accepting an escrow instruction or amended or supplemental escrow instruction containing any blank to be filled in after the signing or initialing of the escrow instruction or permitting any person to make any addition to, deletion from, or alteration of an escrow instruction or amended or supplemental escrow instruction unless the addition, deletion, or alteration is signed or initialed by all persons who signed or initialed the escrow instruction or amended or supplemental escrow instruction prior to the addition, deletion, or alteration;

(c) failing to carry out the escrow transactions pursuant to the written escrow instructions unless amended by the written agreement of all parties to the escrow agreement;

(d) accepting any escrow transaction that requires or has required the prepayment, deduction, or withholding of any sum to cover payments on the indebtedness or any prior encumbrance if the payments are not due and payable to the mortgagee or obligee at the time the escrow is established. However, payments may be made on property taxes for the current year or for the next annual premium on hazard insurance.

(e) refusing to allow parties to an escrow transaction or designated agents of those parties access to the records of the escrow transaction; and

(f) failing to promptly distribute funds pursuant to escrow instructions.

(2) Any licensee who engages in an unauthorized business practice is subject to the revocation or suspension of his license.

NEW SECTION. **Section 13. Investigations by director -- desist order -- injunctions or other actions.** (1) The director may investigate, upon complaint or otherwise, if it appears that:

(a) an escrow agent is conducting its business in an unsafe and injurious manner or in violation of [this act] or any rule promulgated pursuant to [this act]; or

(b) a person is engaging in the escrow business without being licensed under the provisions of [this act].

(2) (a) If it appears to the director, upon sufficient grounds or evidence satisfactory to the director, that an escrow agent has engaged or is about to engage in any act or practice in violation of [this act] or any rule or order issued pursuant to [this act] or that the assets or capital of any escrow business or company are impaired or the escrow agent's affairs are in an unsafe condition, the director may summarily order the escrow agent to cease and desist from the act or practice or the director may apply to the district court of the first judicial district of Lewis and Clark County to enjoin the act or practice and to enforce

compliance with [this act] or for any other appropriate equitable relief.

(b) Upon a proper showing, the court may:

(i) grant a temporary restraining order, followed by a preliminary injunction and a permanent injunction;

(ii) appoint a receiver for the defendant or defendant's assets;

(iii) cancel the licensee's license; and

(iv) order other equitable remedies the court considers necessary and appropriate.

(3) The court may not require the director to post a bond.

NEW SECTION. **Section 14. Subpoenas -- oaths -- examinations of witness and evidence.** (1) In the conduct of any examination, investigation, or hearing, the director may:

(a) compel the attendance of any person or obtain any documents by subpoena;

(b) administer oaths;

(c) examine any person under oath concerning the business and conduct of affairs of any person subject to the provisions of [this act]; and

(d) require the production of any books, records, or papers relevant to the inquiry.

(2) If a person refuses to obey a subpoena issued to

the director, the district court of the first judicial district of Lewis and Clark County or other district court having proper venue, upon application by the director, may order the person to produce documentary evidence or to give evidence touching the matter under investigation or in question. If a person fails to obey the order of the court, the person may be punished by the court as contempt of court.

NEW SECTION. **Section 15.** **Hearings and appeals.** The provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, apply to a contested case brought under [this act].

NEW SECTION. **Section 16.** **Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 17.** **Sunrise exemption.** [This act] is exempt from the legislative audit committee report provided for in 2-8-203.

NEW SECTION. **Section 18.** **Codification instruction.** [Sections 1 through 15] are intended to be codified as an integral part of Title 32 and the provisions of Title 32 apply to [sections 1 through 15].

NEW SECTION. **Section 19.** **Severability.** If a part of [this act] is invalid, all valid parts that are severable

from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND INDUSTRY

Call to Order: By Chairman Gene Thayer, on February 15, 1989, at 10:00 a.m.

ROLL CALL

Members Present: Chairman Thayer, Vice Chairman Meyer, Senator Boylan, Senator Noble, Senator Williams, Senator Hager, Senator McLane, Senator Weeding, Senator Lynch

Members Excused: None

Members Absent: None

Staff Present: Mary McCue, Legislative Council

Announcements/Discussion: None

HEARING ON SENATE BILL 409

Presentation and Opening Statement by Sponsor: Senator Gage, Senate District 5, stated that this bill changed some of the public accounting board terms. Presently the board members serve three year terms and can serve two consecutive terms, but must sit out a year before they can sit on the board again. He said part of the bill put board members on five year staggered terms, and the new section 4 of the bill was the implementation of the system of staggering those terms. He said he had worked the thing out to see if it accomplished what it was designed to do, and he said it did.

Senator Gage said another part of the bill, defined public accounting. He said he would like them to be very aware, in their questioning of people, particularly in reference to the bankers and the legal profession. He said a portion of the bill indicated, on line 18, that it was dealing with services involving the use of accounting, and to auditing skills, on line 14 and 15. He asked them to look at line 18 and 19, where it said one or more types of management advisor or consulting service, and again to line 21, where it said furnishing

DISPOSITION OF SENATE BILL 359

Amendments and Votes: None

Recommendation and Vote: Senator McLane made a motion to TABLE SB 359. The motion Carried Unanimously.

Announcement: Chairman Thayer asked Senator Hager to take the chair so he could present SB 303.

HEARING ON SENATE BILL 303

Opening by Sponsor: Senator Thayer, Senate District 19, Great Falls, said he was introducing the bill because of a situation that happened in Great Falls a little over a year ago. He handed the committee copies of newspaper clippings. See exhibits #5, #6, and #7. He said the articles told about a multiple of thefts, of money being held in escrow accounts, by a Great Falls escrow agent. He said the amount had totalled more than $1,000,000, and had been taken from hundreds of customer's escrow accounts. He said the aftermath of the tragedy revealed an apparent need for some type of oversight of the unregulated escrow business. He said the bill was drafted in response to a need for providing some type of assurance to the public, and would make it safe to transact escrow business in the future.

He said the legislation basically provided for regulation, partially included a requirement for periodic certified audits, and required licensing for the escrow industry, by the Department of Commerce. He said the bill followed principles of legislation enacted in New Mexico, Utah, Arizona and Nevada.

Senator Thayer said section 1 provided all escrow businesses, be they escrow business or small independent escrow agents, were subject to licensing regulations by the financial division within the Department of Commerce. He said this was the department that already handled the activity.

Section 2 set forth the definitions of the activity.

Section 3 set forth the entities exempt from the act. He said attorneys and public accountants did not actively administer escrow accounts, and were exempt from regulations. Those individuals who were

principally in the business of preparing abstracts and preparing title searches were not regulated, if the escrow transaction was formed on the basis of the abstract search, and did not exceed 90 days. Single transactions by real estate brokers, plus accounts of court ordered escrow work were exempt.

Section 4 placed the burden of proof of entitlement to an extension on the party claiming. He said those people who might be qualified under section 3, must provide proof of their business.

Section 5 set forth the powers and duties placed upon the director of the Department of Commerce for enforcing the act. He said the bill included rule making authority to adopt rules to regulate escrow agents, to conduct examinations, and to establish fees for licensing and examination for escrow agents.

Section 6 outlined the information contained in the application for the escrow license.

Section 7 prohibited the transfer or assignment of a license.

Section 8 required the licensee to maintain business records that were subject to examination. These records consisted of those used in general escrow businesses. Subsection 5 required the annual filing of a CPA certified audit, of the licensees' escrow business.

Section 9 required the licensee to provide a full statement of the escrow account in response to the request of the claimant. This section gave a consumer an opportunity for independent oversight of the account.

Section 10 delineated criteria for the establishment of an escrow account and the disbursement of funds from the account. Subsection 3 specifically provided that escrow accounts were not subject to execution for attachment because of any claims against the escrow agent. Subsection 3 stipulated that any interest earned on an account went to the customer, and not to the agent.

Section 11 set forth fees for the licensing and examination, and those fees were to be paid to the credit of the state special revenue fund, and used by the Department of Commerce for collecting fees for licensing and examinations.

Section 12 contained a list of unauthorized practices. Any one of these practices could subject the licensee to revocation or suspension of his escrow license.

Section 13 gave the director the authority to investigate escrow businesses, and issue cease and desist orders when it knew acts and practices were done in violation of the act.

Section 14 gave the director the necessary investigative tools to conduct examinations of escrow businesses.

Section 15 provided that contested cases for alleged violations of the act, be governed by procedures of the Montana Administrative Procedures Act. The legislation provided good consumer protection and accountability in an area that, as past experience had shown, needed an amount of regulation.

Senator Thayer said he requested input from around the state for this legislation. He said their response had been, if you're going to regulate this business, why not some other business? He said that in an effort to be fair to everyone, he had presently included banks in the legislation. He said, since their inclusion, the Department of Commerce had informed him that since banks were already examined by bank examiners they wouldn't need to be included, because they could have their escrow department examined when the bank examiner was there. He stated he didn't know why they weren't doing that at the current time.

Senator Thayer said he didn't want to create more bureaucracy or overburden anyone, he was simply trying to protect the consumer. He said the horror stories, of people who have lost huge sums of money, had prompted him to try preventing this from happening again.

List of Testifying Proponents and What Group They Represent:

George Bennett - Montana Bankers Association
Chip Erdman - Montana League of Savings Institutions
Montana Savings and Loans
David Calahan - First Interstate Bank of Missoula Gene Phillips - Montana Land and Title Association
First Interstate Bank of Kalispell
Self/Attorney
Jim Hanson - First Security Bank of Malta
Bob Pfifer - Montana Credit Unions

Tom Hopgood - Montana Association of Realtors
Al Leppink - Montana Escrow Association
Allen Kronestor - Montana Bar Association
Tim Conner - National Mortgage Company
National Escrow Company
Bill Gowan - Helena Abstract and Title Company
Bill Dawe - Manager, Morris Escrow, Helena, Montana

List of Testifying Opponents and What Group They Represent:

None

Testimony: George Bennett said his association was strongly in favor of this bill. He said the situation was bad whenever a totally unregulated, unsupervised private escrow company could handle thousands of dollars worth of the customers' public funds, and act in a fiduciary capacity. He said they were of the understanding, that there were customers of the escrow company who realized something was wrong, but had no one to turn to, other than the county attorney. He said this was an area where there should be supervision and regulation. He said the were proposing financial institutions be exempt from section 3 of the bill. He stated the Utah legislation had exempted "any person chartered or licensed by this state as a depository institution". He said they would suggest that kind of an amendment, because a discussion, at a public relations meeting of the Bankers Association, had revealed they weren't aware of any cases where the banks hadn't made good any shortage of funds in escrows. He said both state and national banks were very heavily regulated. He said he assumed the exemptions in this act, for lawyers, accountants, and brokers, was based on the fact that they were already regulated for customer protection.

Mr. Bennett said they had a duel banking system, which meant that national banks were nationally controlled and regulated, and state banks were chartered in Montana and regulated by the financial division of the Department of Commerce. He said FDIC and other such regulations, also resulted in heavy federal regulation of state banks, or at least examination of state banks. He said banks had very heavy capital requirements, had internal and external audits, and were examined for a multitude of purposes. He said they had bankers blanket bonding coverage, fidelity bonds, general liability insurance, and their operations, as to profits and dividends, were very heavily regulated. He stated every phase of banking was controlled, even their hours of operation, their accounting methods, and practically every other aspect.

He said there was already a regulation to prevent any loss to an escrow customer of a bank. He stated there was no reason why the state banking auditor couldn't look at escrows in their regular audits. He said they highly recommend passage of the bill, but with an amendment that would exclude financial institutions under section 3.

Chip Erdman said they supported the bill, and certainly supported the concept, however, they agreed with Mr. Bennett that federal or state chartered savings and loans and banks need not be included. Mr. Erdman said savings and loan people had told him these funds were placed in regular accounts, savings accounts, deposit accounts or mortgage accounts, and were covered by federal insurance. He said they were subject to federal regulators, and both internal and external audits. He questioned whether or not the state could regulate federal and state chartered institutions, and stated it was not typically done. He said the federal law superseded in most cases, and he thought that was recognized by the state of Utah, when one of their first exemptions, to a similar act, excluded state and federally chartered banks. He asked for support of the bill with an amendment excluding federally regulated institutions.

David Calahan said he was President of a bank which was owned by a holding company located in Billings. He said the holding company probably had the largest escrow department in the state of Montana at a volume of $130,000,000 plus. He said he was speaking in favor of SB 303, but he was asking them to consider an amendment to exclude banks from that particular regulation. He said their regulation was intended to prevent unsound and unsafe banking practices. He stated the escrow department was an off balance sheet asset, and was not on the assets of the bank, and it got less attention from their examiners. He stated they had internal auditors that counted cash, examined it frequently, and evaluated the profitability of that particular department of the bank. He said the key was that they were regulated to maintain minimum capital requirements, and those regulations forced them to have profitability, whether they liked it or not. He said had to have the ability to repay.

Gene Phillips said they supported the bill. He said they would like to make a suggestion for an amendment on page 4, line 8, following the word "companies", strike the language "if the escrow transaction does not exceed 90 days", and insert "and regulated by the

Commissioner of Insurance, who is not actively engaged in the escrow business". He said the 90 day time frame provided in the bill was not sufficient. He said that quite often the title company received funds that were to be used in the closing of a real estate transaction, which could take as long as eighteen to twenty-four months.

Mr. PHillips said national banks should not be covered under this bill, and he wasn't certain the state of Montana had the authority to regulate a national bank.

He said section 10, page 10, provided the interest on the account was to be paid to the depositing party, or they could agree to have it paid by "subsequent" agreement. He suggested striking the word "subsequent". He said section 12 required all escrow instructions to be signed by both parties to the escrow, and he didn't think that really conformed to reality of the working world today. He said, when an ordinary contract went into an escrow contract for deed, the contract for deed would provide, upon default by the buyer, the seller could deliver notice of that default to the escrow agent, and receive all the documents back. He stated that was a change in the escrow agreement that was only signed by the seller, and not by both parties, so that language needed to be changed.

Gene Phillips stated, on page 19 the bill said that upon investigation under a subpoena, a person who was subpoenaed was required to give evidence "touching" the matter under investigation. He said they routinely objected to evidence which may be irreverent, and the word "touching" would create one more area of debate. He said that with those suggestions, they supported the bill and hoped for a do pass as amended.

Jim Hanson stated escrows were generally drawn up and delivered to them by an attorney, and they checked off the documents to see that everything was in the file. He said they sent a confirmation letter to the buyer and seller, which stated they had the escrow in their bank. He said they charged a small fee for accepting the documents. He said they felt their largest liability was when payments were received, they had to figure the interest and make certain the interest and the principal payments went to the right parties. He said they sent a document to the buyer and seller, stating the payment had been received, and how much was left owing on the escrow. He said that anytime there

was a modification in the escrow, they sent notification to the buyer and seller, and kept everybody abreast with what was going on. He said they also sent out a letter when the escrow was being completed, and that negated their liability. He said they supported the bill, but any additional fees incurred by their bank would be passed on, to the consumer. (See Exhibit #8)

Bob Pfifer said they also supported the legislation, and suggested an exemption for financial institutions. He said they did not have a lot of credit union in Montana who provided an escrow service. He said that those who did, required the funds go into a regular share account that paid dividends. He said credit unions were regulated by federal regulators, and required to have federal insurance for both federal and state charters. He said they felt this legislation was a duplication of the examination process for financial institutions. He said the language, on page 9, line 21 and then again on page 10, line 4, should include "credit unions", because they would not be able to deposit escrow funds within our own credit union, if financial institutions were not exempt.

Tom Hopgood said they supported SB 303, but the realtors had a small amendment to offer. On page 4, section 3, it said real estate brokers were exempt from the act when they had an escrow "in the course of and incidental to a single real estate transaction: and for which a real estate license is required;". Then line 18, subsection 2, of section 3 says, "An act by a broker that constitutes an escrow transaction may not exceed a period of 90 days;. He said they suggested striking that from act, because there were situations where a broker was required to hold an escrow longer than 90 days. He said he believed, when read in connection with the next sentence, "A trust account of a broker licensed by the Montana board of realty regulation is not an escrow account in the meaning of [this act].", it would exempt realtors when they were holding ernest money. He said they were asking to strike the language on lines 18 and 19.

Al Leppink said they supported the bill, and concurred that banks should be exempt. He said they supported the amendments offered by Mr. Phillips. He said the bill was an effort to regulate collection escrows. He asked to amend section 8, paragraph 5, to make them "subject to an audit". (See Exhibit #10)

Allen Kronestor said he rose in support of SB 303 and was not seeking an exemption, because the sponsor was foresighted enough to have include lawyers. He said, on page 15, line 5, if they deleted "touching" and inserted "relevant to", that would be exactly what was intended.

He suggested they consider administrative procedures, as outlined on page 1, lines 24 and 25, and page 15, section 15. He said he was concerned whether those sections, together, created an argument, or an issue as to whether or not rule making under this act would be outside the APA. For example, on page 1, lines 24 and 25, under APA it was not always necessary to have a hearing. He said it should be clarified whether the intent was to overcome that requirement, or add to the requirement of the APA.

Tim Connor said their primary business was buying and selling discounted real estate contracts. He said they bought the sellers interest of 300 to 400 escrows in Montana every year. He said the escrow portion of their company was very small, but it would fall under this bill. He said they supported SB 303 with the proposed amendments for section 8. He said he objected to the annual audit requirement, if banks were excluded. He said the cost of annual audits would be prohibitive, and those costs would have to be passed on to the customer. He said this would escalate escrow fees to such an extent that only banks would be left in the escrow business, if they were exempt. He suggested audits, at the request of the director, as a workable plan.

He said page 12, section 12, line 8 required both parties in an escrow to sign and initial any changes in the escrow. He said that when you had an escrow and contract for deed, the seller owned that contract, and under that restriction he would not be able to assign or direct his payments to pay off a loan or to resell that contract without the permission of the buyer. He said the buyer should not have that control. He suggested, on line 8, deleting "persons" and inserting "affected party".

Bill Gowan said he supported the amendments proposed by the Montana Escrow Association and by the Montana Land Title Association. He said the audit requirement would cost his company $3,000 to $5,000 for an annual audit, and he maintained less than 200 escrow accounts. He expressed support for the amendments Mr. Phillips presented.

Bill Dawe stated they were a collection agency, and supported SB 303 with the amendment to the audit provision. He said an annual audit would cost $8,000 for his operation. He said consumers needed protection, and this was a good bill. He asked the committee to please consider the suggested amendments.

Questions From The Committee: Senator Lynch asked Gene Phillips to repeat his amendment. Mr. Phillips said, "Page 4, line 8, after the word `companies', strike the remaining portion of line 8, and all of line 9, and insert the following, `and regulated by the Commissioner of Insurance who is not actively engaged in the escrow business'." Mary McCue stated, "You need to switch those around."

Senator Thayer told Senator Williams the act was exempt from the sunrise bill.

Senator Noble asked if there were any federally regulated financial institutions that were or could be questionable? Mr. Bennett said there was always some possibility a federally regulated bank could be closed by the regulators, or for it to fail. He said the fear of bank failure had brought a lot of preventive machinery in place. He said he didn't know of any customer who had ever lost anything from an escrow account in a bank.

Closing By Sponsor: Senator Thayer said there were several technical amendments that needed worked on. He said there was one major amendment he would offer, and that was to exempt financial institutions. He said he hoped, if they deleted that section, there would be language added to require them to have their escrow accounts examined during their routine examinations. He thanked them for a good hearing.

DISPOSITION OF SENATE BILL 303

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

Announcement: Senator Hager handed the gavel to Vice Chairman Meyer to chair the next hearing.

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

DATE 2/15/89

51st LEGISLATIVE SESSION 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR DARRYL MEYER	✓		
SENATOR PAUL BOYLAN	✓		
SENATOR JERRY NOBLE	✓		
SENATOR BOB WILLIAMS	✓		
SENATOR TOM HAGER	✓		
SENATOR HARRY MC LANE	✓		
SENATOR CECIL WEEDING	✓		
SENATOR JOHN"J.D."LYNCH	✓		
SENATOR GENE THAYER	✓		

Each day attach to minutes.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 7
DATE 2/15/89
BILL NO. SB303

Montana

Victims rip 'trusted' swindler over scam

GREAT FALLS (AP) — Victims who lost more than $900,000 in thefts by E. Robert Brown of Guaranty Escrow Services say they blame the confessed swindler most of all for betraying their trust.

They described Brown as a likeable man whose place of business was a pleasant place to stop by for a friendly visit. That, along with their sympathies for his wife's struggle with cancer, solidified their trust.

Virginia Peters, a Great Falls customer whose discovery of theft by Brown led to his arrest, felony charges against him and the Feb. 10 closure of Guaranty Escrow, said Brown traded on that trust.

"And all the time I was feeling sorry for him," Peters said. "He was down there finding out all these ingenious methods of ripping off people. To believe in him so long ... and then to be fooled so badly. It really hurts."

Brown pleaded guilty earlier this month to 30 counts of felony theft and will be sentenced Dec. 9.

Peters said Brown lied to her for a year, blaming late monthly payments on his wife's illness. During that time, he kept the final $29,546 payment her buyer had made, she said.

"This is the thing that snagged me. He was so smart to fool all those people," Peters said. "He thought it out very carefully. That makes it worse, in my book."

Brown was an established lawyer and businessman in Great Falls, and was active in civic activities and politics, previously serving as Cascade County Republican Party chairman.

Authorites said the thefts involved transactions over a five-year period. But people tend to ask fewere questions of professionals, said Deputy County Attorney Steve Hagerman.

When Rita and Richard Liggett needed to open a second escrow account, Rita Liggett said they stayed with Guaranty Escrow partly because Brown's rates were less expensive than those of some competitors and because Brown and his wife, Virginia, gave the impression they were working hard for their customers.

"I liked Bob Brown. I trusted him," she said. "Everyone liked Virginia."

But Ray Walters, another Great Falls customer, said everyone caught in the scam deserves a bit of the blame.

"I heard rumors — and that's what they were, rumors — for two years that there were problems (at Guaranty Escrow)," Walters said. "In my particular case ... I should have done something about it."

Walters, a home buyer with a tax account at Guaranty Escrow, estimated he lost three half-year property tax payments because of Brown's thefts.

"It is easy enough to affix blame to someone else. But this could not have gone on for so long if so many people had not acted. I think the blame has got to be shared across the board, whether it is real estate people or the people that had the property," Walters said.

Hagerman has said he will recommend a prison sentence of 75 years with 15 suspended for Brown. Prison officials have said such a sentence means Brown would serve from 7½ years to 10 years before becoming eligible for parole.

Hagerman said the sentence should ensure that Brown would remain on parole or probation throughout his life, once out of prison.

Julie Macek, a Great Falls lawyer who has represented Brown with colleague Ralph Randono, said Brown will not respond to the victims' comments until sentencing.

WITNESS STATEMENT

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 8
DATE 2/15/89
BILL NO. SB 303

NAME: JIM LARSON DATE:

ADDRESS: MALTA, MT

PHONE: 406-654-2221

REPRESENTING WHOM? First Security Bank

APPEARING ON WHICH PROPOSAL: SB 303

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? _____

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 9
DATE 2/15/89
BILL NO. SB 303

(This sheet to be used by those testifying on a bill.)

NAME: David Cahill

DATE: 2/15

ADDRESS: Missoula

PHONE: 721-4200

REPRESENTING WHOM? 1st Interstate Bank

APPEARING ON WHICH PROPOSAL: 303

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? _____

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

WITNESS STATEMENT

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 10
DATE: Feb 15 2/15/
BILL NO. SB303

NAME: Allen B Leppink

ADDRESS: 204 North 29th ST Billings

PHONE: 248-3000

REPRESENTING WHOM? Montana Escrow Assoc

APPEARING ON WHICH PROPOSAL: SB 303

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? _____

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

DATE 2/15/89

COMMITTEE ON Business & Industry

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppos
GENE PHILLIPS	MONTANA LAND TITLE ASSOC	SB303	Amend	
Tom Hopgood	Mont. Assoc. Realtors	SB303	✓	
BRAD STRATTON	American Land Title Co/ Mont Land Title Assoc		Amend	
Rick ZANTO	MONT Land Title Assoc	SB303	Amend	
ROB BELL	Montana Society of CPAs	SB 409	✓	
Allen R Leppink	MONT ESCROW ASSOC	SB303	Amend	
TIM Conner	National Escrow	SB303	Amend	
BILL GOWEN	HELENA ABSTRACT & TITLE CO	SB 303	AMEND	
BILL DAWE	MORRIS ESCROW	SB303	AMEND	
GEORGE T. BENNETT	MONT. BKRS ASSN	SB303	AMEND	
David Calohan	1st Interstate Bk of Missoula	SB 303	Amend	
PHIP ERDMANN	MT League of Savings Inst	SB303	Amend	
MIKE HOLLAND	MT SOCIETY OF CPA's	SB409	✓	
Bob Pyfer	MT Credit Unions League	SB303	Support/ Amend	

(Please leave prepared statement with Secretary)

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND INDUSTRY

Call to Order: By Chairman Gene Thayer, on February 17, 1989, at 10:00 a.m. through 12:30 p.m., with an Executive Action Session at 1:30 p.m.

ROLL CALL

Members Present: Chairman Thayer, Vice Chairman Meyer, Senator Boylan, Senator Noble, Senator Williams, Senator Hager, Senator McLane, Senator Weeding, Senator Lynch

Members Excused: None

Members Absent: None

Staff Present: Mary McCue, Legislative Council

Announcements/Discussion: Chairman Thayer said we'll be 30 minutes on the first 2 bills, and the room is small, so those who are here for the last bills could leave and return in 1/2 hour if they wished.

HEARING ON SENATE BILL 443

Presentation and Opening Statement by Sponsor: Senator Stimatz, Senate District 35, stated that the original lottery legislation said regional. According to the Attorney General's opinion, we were not eligible to do multi-state lotteries. Senate Bill 443 will change that to multi-state, so that we can do across the U.S. On page 2, lines 4 and 5 is the only new language in the bill, and it deletes the word "regional". That gives us the authority to study and enter into agreements with other lottery states to offer lottery games. The technology has improved greatly, through the use of computers, that you don't have to just have a relationship with an adjacent state. This authority allows the lottery to study and pick the best group of states in which to promote lottery tickets.

List of Testifying Proponents and What Group They Represent:

Diana Dowling, Director of the Montana Lottery

Amendments and Votes: None

Recommendation and Vote: Senator Williams made a motion to TABLE SB 248. The motion was seconded by Senator Noble. The motion Carried, with Senator Hager and Senator Thayer opposing the motion.

DISPOSITION OF SENATE BILL 303

Discussion; Mary McCue said she had collected the suggested amendments, prepared them, and handed them out to the committee. (Exhibit 18) She said, in the statement of intent, at the bottom of page 1, lines 24 and 25 strike "only after hearing for which notice has been given".

Mary McCue said Mr. Phillips had suggested that we amend on page 4, lines 8 and 9 because for the title companies this language was too restrictive and he suggested this new language. The effect of that, was a title company, who wasn't in the escrow business and was already regulated by the commission will be exempt.

Chairman Thayer said that in regard to amendment #6, S & L's were audited every year and banks were audited every 30 months. He thought they should have annual audits. Chairman Thayer said the guy that raised that question was buying escrows from somebody else, and was a third party escrow dealer. The scope of the audit must be limited to a sample check of closed escrow transactions. The committee decided not to use amendment #6.

Mary McCue said that in amendment #7 she had used the term regulated lender, and asked Mr. Bennett if that was a definition? Mr. Bennett said that regulated lender meant more than banks, savings and loans and credit unions. Mary McCue said perhaps that wasn't the language they wanted. The committee decided to use the language "with a financial institution, as defined in 32-6-103,".

Mary McCue went through the other suggested amendments, which were simple language changes on pages 10 and 12, and on page 15, line 5 strike the word "touching" and insert "relating to".

Amendments and Votes: Senator Noble made a motion to adopt the amendments to SB 303, as presented on Exhibit 20. Senator McLane seconded the motion. The motion Carried Unanimously.

Recommendation and Vote: Senator Noble made a motion SB 303 DO PASS AS AMENDED. Senator McLane seconded the motion. The motion Carried Unanimously.

DISPOSITION OF SENATE BILL 275

Discussion: None

Recommendation and Vote: Senator Meyer made a motion to TABLE SB 275. Senator Noble seconded the motion. The motion carried Unanimously.

DISPOSITION OF SENATE BILL 349

Discussion: Senator Williams said he thought they were tabling the wrong bill, but expected to be out voted. Further discussion by the committee affirmed that to be true.

Recommendation and Vote: Senator Meyer made a motion to TABLE SB 349. Senator Noble seconded the motion. The motion Carried, with Senator Williams opposed.

DISPOSITION OF SENATE BILL 313

Discussion: Chairman Thayer said Senator Mazurek stated it very well when he said this was an important policy decision of the legislature.

Recommendation and Votes: Senator Williams made a motion SB 313 DO PASS. Senator Noble seconded the motion.

Discussion: Chairman Thayer acknowledged Mr. McKee because he had some proposed amendments to present to the committee. (Exhibit 23) Mr. McKee said pages 2 and 3 would replace sections 2 and 3. He said the amendment will allow an exemption to residential property, and defines residential property. It means a house that would be occupied by the owner of the property. "Therefore, once the deed of trust was executed, the owner of the property who sold and moved out, and the new owner assumed it and moved in and lived in it, lived there and signed a default up to within 30 days of the foreclosure sale, the property would be exempt from deficiency judgment. We could live with that. It

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

DATE 2/17

51st LEGISLATIVE SESSION 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR DARRYL MEYER	✓		
SENATOR PAUL BOYLAN	✓		
SENATOR JERRY NOBLE	✓		
SENATOR BOB WILLIAMS	✓		
SENATOR TOM HAGER	✓		
SENATOR HARRY MC LANE	✓		
SENATOR CECIL WEEDING	✓		
SENATOR JOHN"J.D."LYNCH	✓		
SENATOR GENE THAYER	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:
We, your committee on Business and Industry, having had under consideration SB 303 (first reading copy -- white), respectfully report that SB 303 be amended and as so amended do pass:

1. Page 1, lines 24 and 25.
Strike: "only after hearing for which notice has been given"

2. Page 4, line 9.
Strike: "90"
Insert: "120"
Following: "days"
Insert: "and the person is regulated by the commissioner of insurance"

3. Page 4, following line 9.
Insert: "(d) a financial institution, as defined in 32-6-103, that has its escrow accounts regularly audited or examined. The financial institution must supply a copy of the most recently prepared audit or examination to the director upon his request."

Renumber: subsequent subsections

4. Page 4, line 19
Strike: "90"
Insert: "120"

5. Page 9, lines 21 and 22.
Strike: "in" on line 21 through "association" on line 22
Insert: "with a financial institution, as defined in 32-6-103,"

6. Page 10, lines 4 and 5.
Strike: "in" on line 4 through "association" on line 5
Insert: "with a financial institution, as defined in 32-6-103,"

7. Page 10, line 18.
Strike: "and subsequent"

8. Page 12, line 8.
Strike: "all persons"
Insert: "the affected party"

continued

9. Page 12, line 13.
Strike: "of all parties"

10. Page 15, line 5.
Strike: "touching"
Insert: "relating to"

AND AS AMENDED DO PASS

Signed: Gene Thayer, Chairman

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 18
DATE 2/17/89
BILL NO. SB303

Amendments to Senate Bill No. ~~248~~ 303
Third Reading Copy

Requested by Sen. Gene Thayer
For the Committee on Business and Industry

Prepared by Mary McCue
February 16, 1989

1. Page 1, lines 24 and 25.
Strike: "only after hearing for which notice has been given"

2. Page 4, lines 8 and 9.
Strike: "if" on line 8 through "days" on line 9
Insert: ", who is not actively engaged in the escrow business and, who is regulated by the commissioner of insurance"

3. Page 4, following line 9.
Insert: "(d) a regulated lender as defined in 31-1-111 as long as any escrow account of the lender is audited by ;
(e) a person who files proof of financial responsibility with the department. The filing of a bond or a liability insurance policy in the amount of at least $75,000 per occurrence is prima facie evidence of the person's financial responsibility;"

Renumber: subsequent subsections

4. Page 4, line 15.
Strike: "and"

5. Page 4, line 19.
Strike: "90"
Insert:

6. Page 8, line 21 through line 4, page 9.
Following: "(a)" on line 21, line 8
Strike: remainder of subsection (5)
Insert: "The director may require, at least once within a 3 year period, an audit by an independent public accountant of an escrow agent's escrow account. It the independent public accountant discovers any discrepancy in the audited account, the director may require annual audits of the escrow account until he believes the problems have been resolved. The scope of the audit must be limited to a sample check of closed escrow transactions, a verification of open escrows, and a determination of whether the escrow agent's records are maintained in a manner as to permit the audit.
(b) The audit sheet report must contain:
(i) a balance sheet of the close of the audit period;
(ii) a statement of receipts and disbursements of escrow funds showing reconciliation between the beginning and ending balances;
(iii) a list of all bank accounts of the escrow agent containing escrow funds showing the name, address, and account

number;

(iv) a list of any closing accounts that have been open for more than 1 year at the end of the audit period, showing the name, number, and amount of the escrow liability;

(v) an explanation of the method used to verify the escrow account liabilities together with the number of escrows;

(iv) the number of confirmations requested;

(vii) the number of discrepancies and approximate percentage of escrow accounts checked; and

(viii) a statement that the escrow agent has complied with any exceptions as disclosed by the sampling, statements, and lists."

7. Page 9, lines 21 and 22.
Strike: "in" on line 21 through "association" on line 22
Insert: "with a regulated lender"

8. Page 10, lines 4 and 5.
Strike: "in" on line 4 through " association" on line 5
Insert: "with a regulated lender"

9. Page 10, line 18.
Strike: "and subsequent"

10. Page 12, line 8.
Strike: "all persons"
Insert: "the affected party"

11. Page 12, line 13.
Strike: "of all parties"

12. Page 15, line 5.
Strike: "touching"
Insert: "relating to"

SENATE BUSINESS
EXHIBIT NO. 20
DATE 2/17/89
BILL NO. SB 303

Amendments to Senate Bill No. 303
Third Reading Copy

Requested by Sen. Gene Thayer
For the Committee on Business and Industry

Prepared by Mary McCue
February 16, 1989

1. Page 1, lines 24 and 25.
Strike: "only after hearing for which notice has been given"

2. Page 4, line 9.
Strike: "90"
Insert: "120"
Following: "days"
Insert: "and the person is regulated by the commissioner of insurance"

3. Page 4, following line 9.
Insert: "(d) a financial institution, as defined in 32-6-103, that has its escrow accounts regularly audited or examined. The financial institution must supply a copy of the most recently prepared audit or examination to the director upon his request."

Renumber: subsequent subsections

4. Page 4, line 19
Strike: "90"
Insert: "120"

5. Page 9, lines 21 and 22.
Strike: "in" on line 21 through "association" on line 22
Insert: "with a financial institution, as defined in 32-6-103,"

6. Page 10, lines 4 and 5.
Strike: "in" on line 4 through "association" on line 5
Insert: "with a financial institution, as defined in 32-6-103,"

7. Page 10, line 18.
Strike: "and subsequent"

8. Page 12, line 8.
Strike: "all persons"
Insert: "the affected party"

9. Page 12, line 13.
Strike: "of all parties"

10. Page 15, line 5.
Strike: "touching"
Insert: "relating to"

DATE 2/17/89

COMMITTEE ON Business & Industry

VISITORS' REGISTER

1 of 2

NAME	REPRESENTING	BILL #	Check One: Support	Oppose
Justin M Farmer	Horse Owner	406	✓	
Bob Stephens		406	✓	
Robert Stephens Jr	Better	406	✓	
Darlene Cashman	Portage Meadow Stables	406	✓	
George Tabb	" "	406	✓	
Dave Shadoan	Bozeman Chamber	428	✓ W/ammend	
Mary Palmer	Citizen interest	428	✓	
MIKE MICONE	DEPT. LABOR & INDUSTRY	428	✓	
Bob Moravec	Missoula Chamber	428	✓	
Diana Dowling	Letter at request of Sen Stimatz	443	✓	
Bud Clinch	Mont Women's Div	449	✓	
TED NEUMAN	~~GREAT FALLS~~ HOCKEY CLUB	406	✓	
AL GEBE	Helena	406	✓	
SID ERICKSON	MT Thoroughbred Breeders Assn	406	✓	
Gary Kopplin	Board of Horse Racing	406		
Bob Speer	OCA	413		
Jay Belden	State Fair	406	✓	
Glenn Pauline	Flathead Basin Building	406	✓	
Robert Baker	SBI Union	428	✓ WITH AMENDMENT	
Jacqueline Orrell	American Mtn Assoc.	428	x with amdt	
Ed Bell	Self as owner & Breeder	406	✓	
Joyce Bell	Self as owner & Breeder	406	✓	
Lynn Nelson	MT Thoroughbred Breeders	406	✓	
Gary Amundson	United Tote	406	✓	
STEVE CHRISTIAN	GOLF	406	✓	
James Midbie	Horse owner	406	✓	

(Please leave prepared statement with Secretary)

DATE 2/7/89

COMMITTEE ON Business & Industry

VISITORS' REGISTER

2 of 2

NAME	REPRESENTING	BILL #	Check One: Support	Oppo
John Sa/mond	WETA	428	X	
Larry Semenza	Breeder	406	X	
Darold Wolff	TRAINER	406	X	
Loyd A. Fitzgerald	Breeder	406	X	
George Wood	MT Self Employed Assn	428	X	
Bonnie Lacey	Alliance of Am. Insurers	428	X	
Richard Brooke	MT. Ret'd, L Assoc	428	X	
Ross Colbson	Tools & Equip. Inc	428	X	
Robert L. Locke	FBS Insurance Bailey Agency	428	X w/o amend	
JM TUTWILER	MT CHAMBER CoM	428	X	
KATHY ANDERSON	INDEPENDENT INSURANCE AGENTS ASSOC. OF MT	428	✓	
Drew Dawson	~~Dept Health~~ SB 407 454		✓	

(Please leave prepared statement with Secretary)

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

HOUSE COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By Rep. Bob Pavlovich, on March 8, 1989, at 8:30 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Paul Verdon and Sue Pennington

Announcements/Discussion: None

HEARING ON SENATE BILL 303

Presentation and Opening Statement by Sponsor:

Sen. Thayer, Senate District 19. Sen. Thayer stated that this bill is the result of an incident that happened in Great Falls, the theft of money by an escrow agent. The agent eventually pled guilty to felony theft charges for more than a million dollars stolen from hundreds of customers' escrow accounts. This bill was drafted in the response to the need to provide some type of insurance to the public. The original bill regulated the agents and the companies. We decided the company is the one to be regulated. Sen. Thayer went over the amendment he had to the bill.

Testifying Proponents and Who They Represent:

Gene Phillips, MLTA
Tom Hopgood, MT Association of Realtors
Sen. Ethel Harding
Bill Gallan, Helena Abstract & Title Co., Helena
Tim Connor, National Mortgage, Bigfork
Bill Dawe, Morris Escrow, Helena
Chip Erdman, MT League of Financial Institutions
George Bennett, MT Bankers Assoc.

Proponent Testimony:

Mr. Phillips said his association supports the bill as amended by Sen. Thayer.

Mr. Hopgood's association supports the bill as amended, particularly the amendment appearing on page 5, lines 1 and 2, which strikes the time limit for an escrow held by a real estate agent. In some instances a real estate escrow does last longer than 120 days.

Sen. Harding said one of her constituents from Bigfork called her just last night and wants to go on record as supporting the bill, however, he wants to be considered as a very small escrow agent and he is concerned about the bill. I spoke with Sen. Thayer and he has told me that these amendments will take care of the very small escrow agents. He understands that there is concern and that the cost would be prohibitive for the small escrow agents that charges a very small fee and isn't a big business like the banks. I want the committee to consider the very small escrow agents.

Mr. Gallan stated that his company does do long term escrow. We got into handling these accounts because the people doing it wanted to get out of the business. The only thing I object to in the bill is the requirement for the audit. This would put a tremendous burden on a company like mine. For us to pay $5,000 per year for this audit is going to cost the people paying the escrow. We offered an amendment to the Senate that would make us subject to an audit. We have no problem being subject to an audit. If Mr. Brown had been subjected to an audit, I don't think he would have had this problem.

Mr. Connor said he has a small escrow company in Bigfork and as this bill now stands we will be out of business as soon as it is passed, as will 35 other independent escrow companies in Montana. We favor the bill, but the required mandatory CPA audit should be amended. Our accountants have told us it will cost $3,000 for this annual audit, we can't pass this on to the customers. It simply will put us out of business. An audit at request will accomplish exactly the same purpose that the full-blown annual audit would. I know of no industry in Montana that is required to have a full-blown annual certified audit. An amendment that allows for audits at the discretion of the director would be more than adequate protection.

Mr. Dawe said he supports the bill with the amendments. The audit called for in the original bill would cost my company approximately $4,000 and this is prohibitive, however, we could live with this as amended. The rest of the bill is fine because we do need the regulation in the industry.
Mr. Erdman stated that his association supports the bill in its current form and the amendment presented by Sen. Thayer. Financial institutions are exempt if their escrow accounts are regularly audited or examined. Banks and financial

institutions have both internal and external auditors, in addition, they are examined by the regulators. There are times when the regulators don't look at the escrow accounts, but the auditors do look at the escrow accounts.

Mr. Bennett said his association supports this bill.

Testifying Opponents and Who They Represent:

Rep. Ben Cohen, Whitefish

Opponent Testimony:

Rep. Cohen said a small escrow agent in Whitefish asked him to let the committee know that the bill as originally written will put the small businesses in Montana out of business if it is passed. If I could have a copy of Sen. Thayer's amendments to send to my constituent he will probably be in support of the bill.

Questions From Committee Members: Rep. Pavlovich asked Sen. Thayer if the amendments take care of the audit that everybody is concerned about? Sen. Thayer said that amendment 18 will take care of this concern.

Rep. Simon asked Sen. Thayer if banks will be subjected to the examination of their escrow accounts? Sen. Thayer said banks will be subjected to the full exam as other escrow accounts under this bill.

Rep. Wallin asked Sen. Thayer how many days an agent has to get the money into a financial institution. Sen. Thayer referred this to one of the proponents from the audience. The response was that this is done daily.

Closing by Sponsor: Sen. Thayer said even though this may never happen again, it did happen and devastated several people's lives. Many older people who thought they had their homes paid off, woke up one morning, read the paper and found out that they had lost large amounts of money.

HEARING ON SENATE BILL 18

Presentation and Opening Statement by Sponsor:

Sen. Williams, Senate District 15, said this bill will allow the PSC to treat advertising costs that promote increased use of regulated communication services as an expense deductible from income or capital assets when setting or regulating rates.

Testifying Proponents and Who They Represent:

Dennis Lopach, Attorney for US West
Gene Phillips, Northwestern Telephone Systems, Kalispell

Proponent Testimony:

Mr. Lopach said his company supports this bill. The way the PSC determines the rates that utility customers pay, they consider the entire pot of revenues, expenses, and investments related to the regulated business.

Mr. Phillips said Northwestern supports this legislation. This does not require the PSC to accept these advertising expenses. They can consider them and if think appropriate can allow them as an offset.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: None

Closing by Sponsor: Sen. Williams said that we all know that advertising stimulates revenues. What we are hoping to do is promote long distance use of the phones.

HEARING ON SENATE BILL 351

Presentation and Opening Statement by Sponsor:

Sen. Williams stated that this bill clarifies the authority to sell debentures to the in-state investment fund; removes retained earnings from a company's capital base; amends the time for certification; amends provisions for carrying back and carrying forward of tax credits; allows investments in capital companies by a trust and a decedent's estate; amends the time schedule for making qualified investments; provides for an extension to the schedule; clarifies restrictions on the use of capital company funds; and provides for automatic decertification in certain cases and for voluntary decertification.

Testifying Proponents and Who They Represent:

Bob Pancich, Board of Investments

Proponent Testimony:

Mr. Pancich stated that they support the bill and concur with the changes and participated in the changes as to clarification.

DAILY ROLL CALL

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 3 8 89

NAME	PRESENT	ABSENT	EXCUSED
PAVLOVICH, BOB	✓		
DeMARS, GENE	✓		
BACHINI, BOB	✓		
BLOTKAMP, ROB	✓ Late		
HANSEN, STELLA JEAN	✓		
JOHNSON, JOHN	✓		
KILPATRICK, TOM	✓		
McCORMICK, LLOYD "MAC"	✓		
STEPPLER, DON	✓ Late		
GLASER, BILL	✓		
KELLER, VERNON	✓		
NELSON, THOMAS	✓		
SIMON, BRUCE	✓		
SMITH, CLYDE	✓		
THOMAS, FRED	✓ Late		
WALLIN, NORM	✓		
PAUL VERDON	✓		

2
SB303
3/8/89

R.L.P. Inc.
d/b/a MOUNTAIN ESCROW
BOX 1374 128 CENTRAL AVE. - WHITEFISH, MT 59937
(406) 862-5888

DEAR LEGISLATIVE MEMBER:

THE HEARING FOR SENATE BILL 303 IS SCHEDULED FOR HEARING BEFORE THE HOUSE BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE ON WEDNESDAY, MARCH 8 AT 8:30 IN ROOM 312.

WE WOULD LIKE TO MAKE YOU AWARE OF SOME SERIOUS CONCERNS REGARDING 3 SPECIFIC ITEMS.

1). COST OF INDEPENDENT AUDIT

THE COST OF AN INDEPENDENT AUDIT WILL BE APPROXIMATELY $10.00 AN ESCROW. FOR EXAMPLE: WE CURRENTLY SERVICE 738 ACTIVE ESCROW ACCOUNTS. WE WOULD BE LOOKING AT A COST OF $7,380.00 ANNUALLY. THIS COST WOULD HAVE TO BE PASSED ON TO THE CUSTOMER IN ORDER FOR US TO RECOVER THE EXPENSE.
CONCEIVABLY A MONTHLY FEE OF $10-$15 PER MONTH PER CUSTOMER.

THAT IS A VERY EXPENSIVE ESCROW FEE. CAN YOU PLEASE TELL US WHY THE STATE CANNOT DO THE AUDITS AS IS DONE WITH THE REAL ESTATE PEOPLE FOR EXAMPLE, AFTER ALL IT IS THE STATE THAT WILL BE REQUIRING THE AUDIT.

IF BANKS DO NOT HAVE THE COST OF AN INDEPENDENT OUTSIDE AUDIT AS YOU ARE REQUESTING US TO DO, OBVIOUSLY THEY WILL NOT HAVE TO INCREASE THEIR COST PER ESCROW ELIMINATING ALL PRICE COMPETITION. CURRENTLY, PRIVATE ESCROW COMPANIES ARE COMPETITIVE WITH BANKS ON MONTHLY ESCROW FEES.

2). THE OCTOBER 1, 1989 EFFECTIVE DATE RE: LICENSE

WILL EXISTING COMPANIES BE REQUIRED TO HAVE THE AUDIT DONE PRIOR TO THE OCTOBEEEEER 1, 1989 EFFECTIVE DATE; OR WILL EXISTING COMPANIES BE AUTOMATICALLY LICENSED AND THEN, WITHIN A GIVEN TIME PERIOD BE REQUIRED TO PROVIDE THE AUDIT?

THIS A VERY IMPORTANT POINT TO SMALL COMPANIES .

3). DIRECTOR

WHAT ARE THE PARAMETERS OF AUTHORITY GIVEN THE DIRECTOR? THE VERBAGE IN THE BILL IS EXTREMELY BROAD AND DEFINITIVE.

RESPECTFULLY SUBMITTED,

MOUNTAIN ESCROW

13. Page 6, line 8.
Strike: "agent's"
Insert: "business"

14. Page 6, lines 13 and 14.
Strike: "and his residence address"

15. Page 7, line 3.
Strike: "agent's"
Insert: "business"

16. Page 7, line 9.
Strike: "agent"
Insert: "business"

17. Page 7, line 16.
Strike: "agent"
Insert: "business"

18. Page 9, lines 13 through 17.
Following: "(b)"
Strike: remainder of line 13 through "agents." on line 17
Insert: "If a licensee does not file this financial statement certified by an independent public accountant, he may request that the director examine the financial condition, transactions, and affairs of the licensee pursuant to procedures prescribed by the director."

19. Page 10, line 8.
Strike: "agent"
Insert: "business"

20. Page 10, line 11.
Strike: "agent"
Insert: "business"

21. Page 10, line 17.
Strike: "agent"
Insert: "business"

22. Page 10, line 18.
Strike: "agent"
Insert: "business"

23. Page 10, line 20.
Strike: "agent"
Insert: "business"

24. Page 10, line 22.
Strike: "agent"
Insert: "business"

25. Page 10, line 22.
Strike: "are"
Insert: "is"

26. Page 10, line 25.
Strike: "agent"
Insert: "business"

27. Page 11, line 4.
Strike: "agent"
Insert: "business"

28. Page 11, line 25.
Strike: "agents"
Insert: "businesses"

29. Page 12, line 6.
Strike: "agents"
Insert: "businesses"

30. Page 12, line 10.
Following: "person"
Insert: "is not a licensed"
Strike: "agent"
Insert: "business license"

31. Page 13, line 16.
Strike: "his"
Insert: "the licensee's"

32. Page 13, line 21.
Strike: "agent"
Insert: "business"

33. Page 14, line 3.
Strike: "agent"
Insert: "business"

34. Page 14, lines 6 and 7.
Following: "the"
Strike: "escrow agent's"
Insert: "licensee's"

35. Page 14, line 8.
Strike: "agent"
Insert: "business"

36. Page 16, lines 3 through 5.
Strike: section 17 in its entirety
Renumber: subsequent sections

VISITORS' REGISTER

Business COMMITTEE

18 303

BILL NO. 313 351 369 DATE 3/8/89

SPONSOR Mazurek Williams Thayer Williams & Brown

Please put the bill number. Thanks

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
GEORGE T. BENNETT	HELENA MONT. BKRS ASSN SB	313-W/ amend.	
MICHAEL E McKEE	HAMILTON MT	313-w/ Amendments	
JOCK ANDERSON	HEL MT	"	
W R DAVIS	Helena MT	303 w amend—	
CHIP ERDMANN	MT LEAGUE FIN INST	303-313 w/Amends	
Randy Reger	RIGS	313 As IS	
Tom Hopgood	Mont. Assoc. Realtors	303, 313	
GENE PHILLIPS	MLTA	SB 303	
GENE PHILLIPS	NTS	SB 18	
Bob Pancich	Board of Investments	SB 351	
Ethel M Harding	Sen. Dist 25	SB 313	
Roger Tippy	Helena - Mt Indep Bankers	313 w/ SSL amdt	
Craig McRae	Glendive, MT Legislative aide to Rep John Johnson	—	—
Brad McRae	Glendive MT	—	—
Bill Gowen	HELENA	w/ Amends	
Dan Levine	Great Falls	with Amendments	
Bob Spannagel	Billings,	313	
Joe Mazurek	MT BANKERS	313	
Charly Core	Great Falls Racine Demand	313 w/ amendments	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

HOUSE COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By Rep. Bob Pavlovich, on March 9, 1989, at 8:30 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Paul Verdon and Sue Pennington

Announcements/Discussion: None

DISPOSITION OF SENATE BILL 18

Motion: Rep. Kilpatrick moved BE CONCURRED IN.

Amendments, Discussion, and Votes: None

Recommendation and Vote: SB 18 BE CONCURRED IN unanimously.

DISPOSITION OF SENATE BILL 351

Motion: Rep. Nelson moved BE CONCURRED IN and moved the amendments.

Amendments, Discussion, and Votes: The amendments insert "-- extension permissible" on page 8, line 17, page 10, line 25, following "may", strike ",", on page 10, line 25, through page 11, line 2 following "~~penalty~~" on line 25, strike remainder of line 25 through "investments" on line 2, insert "abate the penalty", page 11, line 7, following line 6 insert "(4) The department of revenue may grant an extension of time in which to make qualified investments pursuant to subsection (1) upon application by a capital company showing reasonable cause for an extension." and renumber subsequent subsection. The amendments DO PASS unanimously.

Recommendation and Vote: SB 351 BE CONCURRED IN as amended unanimously.

DISPOSITION OF SENATE BILL 303

Motion: Rep. Johnson moved BE CONCURRED IN.

Amendments, Discussion, and Votes: Rep. Simon moved the amendments. The 4 pages of amendments DO PASS unanimously.

Recommendation and Vote: SB 303 BE CONCURRED IN as amended 15-1 vote.

DISPOSITION OF SENATE BILL 369

Motion: Rep. Steppler moved BE NOT CONCURRED IN. Rep. DeMars made a substitute motion to TABLE the bill.

Amendments, Discussion, and Votes: None

Recommendation and Vote: SB 369 TABLED 11-5 VOTE.

HEARING ON SENATE BILL 443

Presentation and Opening Statement by Sponsor:

Sen. Stimatz, Senate District 35, said this will allow the lottery commission to participate with other states in lottery games whether or not the state has a common border with Montana; and amends Section 23-5-1007, MCA.

Testifying Proponents and Who They Represent:

Rep. Bob Pavlovich

Proponent Testimony:

Rep. Pavlovich wants to go on record in support of this bill.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: None

Closing by Sponsor: Rep. Stimatz said this bill just concerns itself with removal of the word "regional" in the existing law. I would hope the committee gives this bill a favorable vote.

DISPOSITION OF SENATE BILL 443

Motion: Rep. Bachini moved BE CONCURRED IN.

Amendments, Discussion, and Votes: None

DAILY ROLL CALL

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 3 9 89

NAME	PRESENT	ABSENT	EXCUSED
PAVLOVICH, BOB	✓		
DeMARS, GENE	✓		
BACHINI, BOB	✓		
BLOTKAMP, ROB	✓		
HANSEN, STELLA JEAN	✓		
JOHNSON, JOHN	✓		
KILPATRICK, TOM	✓		
McCORMICK, LLOYD "MAC"	✓		
STEPPLER, DON	✓late		
GLASER, BILL	✓		
KELLER, VERNON	✓		
NELSON, THOMAS	✓		
SIMON, BRUCE	✓		
SMITH, CLYDE	✓		
THOMAS, FRED	✓		
WALLIN, NORM	✓		
PAUL VERDON	✓		

CS-30

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

DATE 3/9/89 BILL NO. SB 303 NUMBER

NAME	AYE	NAY
Bob Pavlovich		
Bob Bachini		
Rob Blotkamp		
Gene DeMars		
Bill Glaser		X
Stella Hansen		
John Johnson		
Vernon Keller		
Tom Kilpatrick		
Lloyd McCormick		
Thomas Nelson		
Bruce Simon		
Clyde Smith		
Don Steppler		
Fred Thomas		
Norm Wallin		
TALLY	15	1

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: Rep Johnson moved the bill be concurred in.
Rep Simon moved the amendments.

Rep Good will carry

#1
3/8/89
SB303

Amendments to Senate Bill No. 303
Third Reading Copy

Requested by Sen. Gene Thayer
Prepared by Mary McCue
March 2, 1989

1. Title, line 7.
Strike: "AGENTS"
Insert: "BUSINESSES"

2. Title, lines 8 and 9.
Following: "PENALTIES"
Strike: remainder of line 8 through "REQUIREMENT" on line 9

3. Page 1, line 15.
Strike: "agents"
Insert: "businesses"

4. Page 1, line 18.
Following: "those"
Strike: "who"
Insert: "businesses that"

5. Page 2, line 7.
Strike: "Agents"
Insert: "Businesses"

6. Page 3, lines 12 through 14.
Strike: subsection (4) in its entirety
Renumber: subsequent subsections

7. Page 3, line 19.
Strike: "agent"
Insert: "business"

8. Page 4, lines 10 and 11.
Following: "companies"
Strike: remainder of line 10 through "days" on line 11

9. Page 5, lines 1 and 2.
Following: "(2)" on line 1
Strike: remainder of line 1 through "days." on line 2

10. Page 5, line 12.
Strike: "escrow agents"
Insert: "persons"

11. Page 6, line 1.
Strike: "escrow agent's"

12. Page 6, line 5.
Strike: "as an escrow agent"

3/9/89

STANDING COMMITTEE REPORT

March 9, 1989

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 303 (third reading copy -- blue), with statement of intent attached, be concurred in as amended.

Signed: _____
Robert Pavlovich, Chairman

[REP. GOOD WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Title, line 7.
Strike: "AGENTS"
Insert: "BUSINESSES"

2. Title, lines 8 and 9.
Following: "PENALTIES"
Strike: remainder of line 8 through "REQUIREMENT" on line 9

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Insert: "business"

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Following: "companies"
Strike: remainder of line 10 through "days" on line 11

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Strike: remainder of line 1 through "days." on line 2

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Strike: "escrow agents"
Insert: "persons"

11. Page 6, line 1.
Strike: "escrow agent's"

12. Page 6, line 5.
Strike: "as an escrow agent"

13. Page 6, line 8.
Strike: "agent's"
Insert: "business"

14. Page 6, lines 13 and 14.
Strike: "and his residence address"

15. Page 7, line 3.
Strike: "agent's"
Insert: "business"

16. Page 7, line 9.
Strike: "agent"
Insert: "business"

17. Page 7, line 16.
Strike: "agent"
Insert: "business"

18. Page 9, line 4.
Strike: "(a)"
Following: "shall"
Insert: "perform one of the following:
(a)"

19. Page 9, lines 13 through 17.
Strike: lines 13 through 17
Insert: "(b) request that the director examine the financial condition, transactions, and affairs of the licensee pursuant to

procedures prescribed by the director."

20. Page 10, line 8.
Strike: "agent"
Insert: "business"

21. Page 10, line 11.
Strike: "agent"
Insert: "business"

22. Page 10, line 17.
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Insert: "business"

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Insert: "business"

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Strike: "agent"
Insert: "business"

25. Page 10, line 22.
Strike: "agent"
Insert: "business"

26. Page 10, line 22.
Strike: "are"
Insert: "is"

27. Page 10, line 25.
Strike: "agent"
Insert: "business"

28. Page 11, line 4.
Strike: "agent"
Insert: "business"

29. Page 11, line 25.
Strike: "agents"
Insert: "businesses"

30. Page 12, line 6.
Strike: "agents"
Insert: "businesses"

31. Page 12, line 10.
Following: "person"
Insert: "is not a licensed"

Strike: "agent"
Insert: "business license"

32. Page 13, line 16.
Strike: "his"
Insert: "the licensee's"

33. Page 13, line 21.
Strike: "agent"
Insert: "business"

34. Page 14, line 3.
Strike: "agent"
Insert: "business"

35. Page 14, lines 6 and 7.
Following: "the"
Strike: "escrow agent's"
Insert: "licensee's"

36. Page 14, line 8.
Strike: "agent"
Insert: "business"

37. Page 16, lines 3 through 5.
Strike: section 17 in its entirety
Renumber: subsequent sections

Amendments to Senate Bill No. 303
Third Reading Copy

Requested by Sen. Gene Thayer
Prepared by Mary McCue
March 2, 1989

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Following: "companies"
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Insert: "perform one of the following:
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Insert: "business"

25. Page 10, line 22.
Strike: "agent"
Insert: "business"

26. Page 10, line 22.
Strike: "are"
Insert: "is"

27. Page 10, line 25.
Strike: "agent"
Insert: "business"

28. Page 11, line 4.
Strike: "agent"
Insert: "business"

29. Page 11, line 25.
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Insert: "is not a licensed"
Strike: "agent"
Insert: "business license"

32. Page 13, line 16.
Strike: "his"
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33. Page 13, line 21.
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34. Page 14, line 3.
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35. Page 14, lines 6 and 7.
Following: "the"
Strike: "escrow agent's"
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Renumber: subsequent sections